

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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ACQUEST HOLDINGS, INC.

Plaintiff,

Civil Action No. 16-CV-00212

-against-

**DECLARATION OF
ADAM R. SCHWARTZ, ESQ.**

TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA

Defendant.

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ADAM R. SCWHARTZ, ESQ., an attorney duly admitted to practice law before this Court, hereby declares, verifies and states under penalties of perjury that the following is true and correct to the best of my knowledge, and I am aware that if any of the following statements made by me are willfully false, I am subject to punishment.

1. I am a Partner of the law firm of McElroy, Deutsch, Mulvaney & Carpenter, LLP, counsel for the Defendant, Travelers Casualty and Surety Company of America (“Travelers”), in connection with the referenced action. As such, I am fully familiar with the facts, circumstances and proceedings in regard to this matter.

2. I respectfully submit this Declaration in further support of Travelers’ motion, pursuant to Rule 12(B)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff’s Complaint, with prejudice, for failure to state a claim upon which relief may be granted.

3. Attached hereto as **Exhibit “A”** is a true and accurate copy of the case, *Egan v. Marsh & McLennan Companies, Inc.*, No. 07-CV-7134, 2008 WL 245511 (S.D.N.Y. Jan. 30, 2008), which is reported on Westlaw.

4. Attached hereto as **Exhibit “B”** is a true and accurate copy of the case, *Harris v. Howard*, No. 08-CV-4837, 2009 WL 3682537 (S.D.N.Y. Oct. 30, 2009), which is reported on Westlaw.

5. Attached hereto as **Exhibit “C”** is a true and accurate copy of the case, *Jannazzo v. United States*, No. 15-CV-3506, 2016 WL 1452392 (E.D.N.Y. Apr. 13, 2016), which is reported on Westlaw.

6. Attached hereto as **Exhibit “D”** is a true and accurate copy of the case, *Minasian v. IDS Property Ins. Co.*, No. 14-CV-10125, 2015 WL 8485257 (S.D.N.Y. Dec. 9, 2015), which is reported on Westlaw.

7. Attached hereto as **Exhibit “E”** is a true and accurate copy of the case, *Pfeffer v. Harleysville Grp., Inc.*, No. 10-CV-1619, 2011 WL 6132693 (E.D.N.Y. Sept. 30, 2011), *aff’d*, 502 F. App’x 28 (2d Cir. 2012), which is reported on Westlaw.

8. Attached hereto as **Exhibit “F”** is a true and accurate copy of the case, *Wall St. Discount Corp. v. Hartford Fire Ins. Co.*, 03-CV-951074, 2004 WL 951074 (S.D.N.Y. May 4, 2004), which is reported on Westlaw.

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Dated: New York, NY
May 5, 2016